

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T:

Public Services – PR & RD Dept – Certain irregularities committed by Sri K.Kurmaiah, , former Panchayat Secretary, G.P. Lingasanipally, , Bijinapally Mandal and VRO.,Tippaipally Village of Pebbair Mandal, Mahabubnagar District – Dismissed from service – Appeal filed – Appeal dismissed – Orders – Issued.

PANCHAYAT RAJ AND RURAL DEVELOPMENT (VIG.III) DEPARTMENT

G.O.Rt.No. 57

Dated:09-01-2009

Read the following:-

1. Proceedings No.B1/885/2006-A6-42, dt. 23-6-2008 of the District Collector(P.W.), Mahabubnagar.
2. Representation of Sri K. Kurmaiah, former Panchayat Secretary, G.P. Lingasanipally, , Bijinapally Mandal and VRO.,Tippaipally Village of Pebbair Mandal, Mahabubnagar District
3. Govt. Memo No.18383/Vig.III/2008-1, dt.11-8-2008
4. From the Dist. Collector (P.W.), Mahabubnagar, Prog.No.B1/835/2006-A6-2, dt. 27-8-2008
5. From the Dist. Collector (P.W.), Mahabubnagar, Lr. No.B1/835/2006-A-6 dt. 27-8-2008.
6. Govt. Mem No.18383/Vig.III/2008-10, dt. 25-10-2008.
7. From the District Collector, Mahabubnagar, Lr.No.B1/835/2006-A6, dt. 29-10-2008.
8. Govt. Fax Memo No.18383/Vig.III/2008-11, dt. 17-11-2008
9. From the Dist. Collector, Mahabubnagar, Lr.No.B1/835/2006-A6-3, dt. 27-11-2008.

ORDER:

1 In the reference 1st read above, the District Collector (Pt.Wing), Mahabubnagar has imposed the penalty of dismissal from service besides recovery of an amount of Rs.3,62,000/- against Sr K. Kurmaiah, Pt. Secretary, G.P. Lingasanipally, , Bijinapally Mandal and VRO., Tippaipally Village of Pebbair Mandal, Mahabubnagar District. Aggrieved by the said orders, the individual has filed appeal before the Hon'ble Minister for Panchayat Raj, in the reference 2nd read above. In his appeal he has requested to exonerate him from the impugned order/Proceedings by setting aside the same and to pass such other order or further orders as deemed fit and proper.

2. In the Govt. Memo 3rd read above, orders have been issued staying the impugned proceedings 1st read above, until further orders, pending disposal of the appeal. Accordingly, the District Collector, Mahabubnagar reinstated the appellant into service- vide reference 4th read above.

(p.t.o.)

3. The District Collector, Mahabubnagar has submitted her reports along with the connected records in the reference 5th, 7th and 9th read above.

4. The District Collector, Mahabubnagar has reported vide references 5th read above that the District Cooperative Officer, Mahaboobnagar was appointed as Preliminary Inquiry Officer for conducting inquiry into the irregularities committed by Sri K. Kurmaiah, Panchayat Secretary and others, in implementation of ISL Programme in GPs of Bijinepally Mandal, Mahabubnagar District.

5. The DCO, Mahabubnagar and Inquiry Officer has reported that (875) quintals of rice has been released to GP Lingasanipally, Bijinepally Mandal and distributed only (369) quintals of rice to the beneficiaries and misappropriated the remaining rice of (506) quintals. The DCO has fixed equal responsibility for misappropriation of the said rice against the MPDO., Bijanepally, FP Shop Dealers, and Panchayat Secretry. Based on the said report, Charge Memo was issued framing the articles of charges against Sri K. Kurmaiah, Pt. Secretary, calling for his explanation-vide charge Memo dt. 26-7-2006. Sri K.Kurmaiah, Pt.Secy. has submitted his explanation dt. Nil. But his explanation was not convincing nature; hence a show-cause notice was issued to the individual calling for his explanation on 1-9-2006. The individual has submitted his explanation to the show-cause notice, but the same is not in convincing nature. On his appeal, the District Collector has conducted a personal hearing on 3-10-2006 and the individual has stated that the MPDO, Bijinepally has forcibly obtained his signature on the ROs, but it is not acceptable.

6. The Dy. CEO., ZP., Mahabubnagar was appointed as Inquiry Officer to conduct inquiry into the charges and the MPDO., Bijinepally was appointed as Presenting Officer-vide Proceedings dt. 5-2-2007. In his report ldt. 7-12-2007 he has reported that the District Collector has fixed the target for Mummaipally village, Bijinepally Mandal, a target of (88) beneficiaries for construction of ISLs., but the Sarpanch and Panchayat Secretary proposed (338) beneficiaries and furnished the list to MPDO., Bijinepally and he in turn without verifying the procedure of the scheme straight away issued the release order for (875) quintals of rice. The Pt. Secy., and FPS Dealer were distributed (422.5) quintals of rice to the (169) beneficiaries and remaining rice (452.5) quintals of rice was mis-utilised The appellant has stated in defense of the charges in the enquiry held on 22-3-2007 at MPP Bijinepally that he has signed the release orders on the pressure of the MPDO, Bijinepally, as he has lifted the rice. But the details are not known. The Pt. Secy., G.P., Lingasanipally is responsible for short distribution of (452.50) quintals of rice along with the then MPDO, Bijinepally, Sarpanch and FP Shop dealer. Separate action has been taken against the MPDO by the CPR & RE.,Hyderabad. The charges framed against the appellant are proved.

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7. The Dy. CEO., and I.O. has further reported that the Pt. Secy., has violated the instructions of the higher authorities as well as rules and guidelines issued by the Government and acted against his job chart. Based on the inquiry report, a show-cause notice was issued to Sri Kurmaiah, directing him to show cause as to why major punishment should not be imposed against him for committing grave irregularities in distribution of ISLs Rice- vide show cause notice dt. 18-1-2008. The individual has submitted his explanation on 3-3-2008 denying all the charges, which are not correct. But he has sanctioned ISLs. more than target and issued the indent to the MPDO., now he is denying the charges, which is not correct. Hence his explanation is not convincing.

8. The District Collector (Pt.Wing), Mahabubnagar after examining the matter carefully with reference to the charges framed , explanation submitted by the C.O., and the material on record has issued the dismissal orders, besides recovery of an amount of Rs.3,62,000/- being the loss caused to Government vide Proceedings dt. 23-6-2008.

9. Against the aforesaid orders, Sri K.Kurmaiah, has filed the appeal under consideration inter-alia contending the impugned proceedings are highly illegal, arbitrary and non-application of mind and simply relying upon the enquiry report of the EO., which was conducted in total violation of rules and regulations and also violation of principles of natural justice and the same are liable to be set aside on the following grounds:-

- i) In the Charge Memo, the disciplinary authority has totally failed to include the list of witnesses and list of documents under Annexure I & II basing on which charges have been framed as per the APCS (CCA) Rules, 1991.
- ii) The appellant was not given any opportunity to cross-examine the witnesses and peruse the documents in order to defend himself.
- iii) No evidence was shown that the appellant has misappropriated the rice along with 2 others to the extent of 1076.18 quintals and he has violated the rules and regulations issued by the Government
- iv) Once the disciplinary authority imposed the penalty under rule 9(x) of APCS (CCA) Rules,1991, necessarily they should have followed the rules contemplated under APCS (CCA) Rules, 1991 to conduct enquiry from the stage of issuing show cause notice to till the imposing the punishment. In this case the disciplinary authority has totally violated all the rules and regulations contemplated under APCS (CCA) Rues, 1991, which are mandatory in nature and nobody is immune to violate the same.

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- v) No direct evidence established against the appellant that he has committed misappropriation along with 2 others to the extent of 1551.18 quintals of rice.
- vi) The appellant's responsibility is only to the extent of 475 quintals of rice which was received by MPDO., Bijinepally and the same quantity distributed among the ISL beneficiaries.
- vii) No enquiry report is communicated to the appellant in order to submit the detailed explanation to the show-cause notice.
- viii) The E.O. has arrived to a conclusion basing on the assumption and presumption in the enquiry contemplated under Rule 20 of APCS (CCA) Rules, 1991, have no role to play.
- ix) Since the disciplinary authority has violated all the rules and regulations and the principles of natural justice from the charge memo to till to impose the punishment is itself is null and void. Therefore, the impugned order dt. 23-6-08 is liable to be set aside.

10. He has therefore prayed to exonerate him from the impugned order / proceedings No.B1/885/21006-A6-4, dt. 23-6-08 issued by the District Collector (Pt.Wing), Mahabubnagar by setting aside the same and to pass such other order or further orders as this Hon'ble Authority may deem fit and proper in the interest of justice.

11. The case was taken up for hearing on 23-9-2008. The petitioner appeared. While reiterating the contentions raised in the petition has stated that whatever the rice he received, he has distributed to the beneficiaries and he never acknowledged the receipt of the entire quantity of rice as alleged in the impugned proceedings. The matter was adjourned to 29-11-2008 for further hearing and the District Collector, Mahabubnagar was asked to give a further report on the contentions made by the petitioner.-vide reference 6th read above..

12. On 29-11-2008 the petitioner appeared. The DPO who is also present has submitted his verification report along with the original records-vide reference 9th read above. It is evident from the verification report that as per the signature bear on release orders and the stock point registers, the appellant has acknowledged the receipt of 707.50 quintals of rice and distributed a quantity of 422.50 quintals and the appellant is ultimately found responsible for mis-use of 285.00 quintals as

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against the alleged misappropriation of 452.50 quintals of rice. The appellant who is present had been shown the report of the DPO and asked to account for 285.00 quintals of rice for which he has properly acknowledged the receipt of the same, but not distributed to the beneficiaries. The petitioner has no answer to this. Hence, it is construed that the appellant is a responsible Panchayat Secretary failed to discharge his duties and responsibilities and responsible for misappropriation of 285.00 quintals of rice.

13 Government, after careful examination of the matter consider that there is no illegality, irregularity or impropriety in the orders passed by the District Collector(PW), Mahabubnagar, in dismissing the petitioner from service. Accordingly the appeal is dismissed and the stay granted earlier is hereby vacated. The District Collector, Mahabubnagar is ordered to recover the value of the rice of 285.00 quintals from the petitioner under the provisions of R.R. Act.

14. The District Collector, Mahabubnagar is requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

CHITRA RAMCHANDRAN
SECRETARY TO GOVERNMENT

To

The District Collector (Pt. Wing), Mahabubnagar.

The Individual through the District Collector (Pt. Wing),
Mahabubnagar.

Copy to:

The Commissioner of Panchayat Raj & Rural Employment, A.P.,
Hyderabad.

The District Panchayat Officer, Mahabubnagar.

The P.S. to Minister for Panchayat Raj.

SC/SF

//FORWARDED:: BY ORDER//

SECTION OFFICER